

The opinion in support of the decision being entered today was **not** written for publication and is **not** precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte USMAN A. K. SORATHIA

Appeal No. 2004-0675
Application No. 09/822,308

ON BRIEF

Before WARREN, DELMENDO and PAWLIKOWSKI, **Administrative Patent Judges**.

PAWLIKOWSKI, **Administrative Patent Judge**.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 17, 19, and 20.

MAILED

MAR 31 2004

**PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES**

Claims 17, 19, and 20 are representative of the subject matter on appeal, and are set forth below:

17. In a process for protective fabrication of a composite structure to be exposed to seawater environments, the improvement residing in a sequence of steps including: a) forming a barrier; b) introducing a fire resisting agent into the barrier after said forming thereof; c) forming a substrate; and d) attaching the barrier to the substrate in underlying relation thereto before completing the fabrication of the composite structure, wherein said introducing of the fire resisting agent comprises: infusion into the barrier.

19. In a process for protective fabrication of a composite structure to be exposed to seawater environments, the improvement residing in a sequence of steps of including: a) forming a barrier; b) introducing a fire resisting agent into the barrier after said forming thereof; c) forming a substrate; and d) attaching the barrier to the substrate in underlying relation thereto before completing the fabrication of the composite structure; wherein said attaching of the barrier to the substrate is performed by providing an adhesive between the barrier and the substrate.

20. In a process for protective fabrication of a composite structure to be exposed to seawater environments, the improvement residing in a sequence of steps including: a) forming a barrier; b) introducing a fire resisting agent into the barrier after said forming thereof; c) forming a substrate; and d) attaching the barrier to the substrate in underlying relation thereto before completing the fabrication of the composite structure; wherein said introducing of the fire resisting agent is performed by infusion thereof into the barrier during said forming of the substrate to effect said attaching of the of the barrier to the substrate without using an adhesive.

The examiner relies upon the following reference as evidence of unpatentability:

Day et al. (Day) US 2001/0031350 A1 Oct. 18, 2001

Claims 17, 19, and 20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Day.

On page 3 of brief, appellant argues claims 17, 19, and 20 on a single issue, i.e., whether Day discloses introducing a fire resisting agent into the barrier after said forming thereof of the barrier. Because appellant provides the same line of argument for all of these claims, we need only select one of these claims for consideration, and we select claim 17 for our consideration. 37 CFR § 1.192(c)(7) and (8)(2003).

OPINION

We refer to the examiner's position regarding the 35 U.S.C. § 102(e) rejection of claims 17, 19, and 20, set forth on pages 3-7 made in the final Office action of Paper No. 17, mailed April 9, 2003. We incorporate the examiner's position as our own.

On page 3 of the brief, appellant argues that claims 17, 19 and 20 specify that the fire resisting agent is introduced into the barrier after it is formed. Appellant argues that Day does not anticipate this claimed subject matter because resin infusion is effected before barrier formation.

Then, in the reply brief, appellant recognizes that Day discloses that infusion of fire resisting agent takes place after formation of the outer skin 37, but appellant argues that the examiner incorrectly interprets outer skin 37 as the barrier recited in claims 17, 19, and 20. Appellant argues that Day

refers to adhesive film 41 between the inner and outer skins as a barrier, not outer skin 37 as a barrier. We disagree with appellant's logic for the following reasons.


The examiner's position regarding the teachings of Day is clearly set forth on pages 3-7 of the final office action of Paper No. 17. For example, on pages 4-5 of the final Office action of Paper No. 17, the examiner states that Day teaches a multi-layer structure, and that the substrate of the claimed invention can be correlated to various portions of the composite of Day. We refer to the examiner's illustrations therein in this regard. We note that during patent examination, the pending claims must be interpreted as broadly as their terms reasonably allow. In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 320, 322 (Fed. Cir. 1999). In determining the patentability of claims, the PTO gives claim language its "broadest reasonable interpretation" consistent with the specification and claims. In re Morris, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997) (citations omitted). There is nothing in appellant's claims that exclude the possibility that their claimed component A of forming a barrier cannot correspond with Day's component 37. Hence, we are not convinced by appellant's line of reasoning set forth in the reply brief.


In view of the above, we therefore affirm the 35 U.S.C. § 102(e) rejection of claims 17, 19, and 20.

Appeal No. 2004-0675
Application No. 09/822,308

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED


CHARLES F. WARREN
Administrative Patent Judge


ROMULO H. DELMENDO
Administrative Patent Judge

) BOARD OF PATENT
) APPEALS AND
) INTERFERENCES

Beverly A. Pawlikowski
BEVERLY A. PAWLIKOWSKI
Administrative Patent Judge

BAP/sld

Appeal No. 2004-0675
Application No. 09/822,308

NAVAL SURFACE WARFARE CENTER
CARDEROCK DIVISION HEADQUARTERS
DAVID TAYLOR MODEL SABIN
9500 MACARTHUR BLVD
WEST BETHESDA, MN 20817-5700